

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Buhner	Team: Squad #16	CCRB Case #: 201408993	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/30/2014 9:48 PM	Location of Incident: § 87(2)(b), the 113th Precinct stationhouse, § 87(2)(b)	Precinct: 113	18 Mo. SOL 2/29/2016	EO SOL 2/29/2016	
Date/Time CV Reported Tue, 09/02/2014 1:31 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/02/2014 1:31 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Charles Lovelock	22435	942082	113 PCT
2. POM Richard Ernyey	06720	953841	PBQ/S
3. POM Thomas Maloney	31851	955121	PBQ/S
4. SGT William Tergesen	3083	946316	113 PCT
5. POM Michael McCaffrey	10888	954111	PBQ/S
6. POM Jason Figari	11521	953859	PBQ/S
7. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.SGT William Tergesen	Discourtesy: Outside § 87(2)(b) in Queens, Sgt. William Tergesen acted rudely toward § 87(2)(b)	§ 87(2)(b)
B.SGT William Tergesen	Discourtesy: Outside § 87(2)(b) in Queens, Sgt. William Tergesen spoke rudely to § 87(2)(b)	§ 87(2)(b)
C.POM Charles Lovelock	Force: Outside § 87(2)(b) in Queens, PO Charles Lovelock used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Richard Ernyey	Force: Outside § 87(2)(b) in Queens, PO Richard Ernyey used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Thomas Maloney	Force: Outside § 87(2)(b) in Queens, PO Thomas Maloney used physical force against § 87(2)(b)	§ 87(2)(b)
F.SGT William Tergesen	Force: Outside § 87(2)(b) in Queens, Sgt. William Tergesen used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
G.POM Jason Figari	Force: Outside § 87(2)(b) in Queens, PO Jason Figari used physical force against § 87(2)(b)	
H.POM Michael McCaffrey	Force: Outside § 87(2)(b) in Queens, PO Michael McCaffrey used physical force against § 87(2)(b)	
I.POM Michael McCaffrey	Force: Outside § 87(2)(b) in Queens, PO Michael McCaffrey hit § 87(2)(b) against an inanimate object.	
J.POM Richard Ernyey	Force: Outside § 87(2)(b) in Queens, PO Richard Ernyey hit § 87(2)(b) against an inanimate object.	
K.POM Richard Ernyey	Off. Language: Outside § 87(2)(b) in Queens, PO Richard Ernyey made remarks to § 87(2)(b) based upon race.	
L. An officer	Off. Language: Outside § 87(2)(b) in Queens, an officer made remarks to § 87(2)(b) based upon race.	
M. An officer	Discourtesy: Outside § 87(2)(b) in Queens and at the 113th Precinct stationhouse, an officer spoke rudely to § 87(2)(b)	
N.POM Richard Ernyey	Discourtesy: Outside § 87(2)(b) in Queens and at Jamaica Hospital, PO Richard Ernyey spoke rudely to § 87(2)(b)	
O.POM Richard Ernyey	Abuse: Outside § 87(2)(b) in Queens, PO Richard Ernyey threatened § 87(2)(b) with the use of force.	
P.POM Richard Ernyey	Force: Outside the 113th Precinct stationhouse and outside § 87(2)(b), PO Richard Ernyey tightly handcuffed § 87(2)(b)	
Q.POM Richard Ernyey	Discourtesy: En route to § 87(2)(b) PO Richard Ernyey gestured rudely toward § 87(2)(b)	
R.POM Richard Ernyey	Force: Outside § 87(2)(b), PO Richard Ernyey used physical force against § 87(2)(b)	
S.SGT William Tergesen	Force: Outside § 87(2)(b) in Queens, Sgt. William Tergesen used physical force against § 87(2)(b)	
T.SGT William Tergesen	Discourtesy: Outside § 87(2)(b) in Queens, Sgt. William Tergesen spoke rudely to § 87(2)(b)	
U. An officer	Abuse: Outside § 87(2)(b) in Queens, an officer damaged § 87(2)(b)'s property.	
V.SGT William Tergesen	Abuse: Sgt. William Tergesen authorized the entry of § 87(2)(b) in Queens.	
W.SGT William Tergesen	Abuse: Sgt. William Tergesen authorized the seizure of § 87(2)(b)'s property.	
X. An officer	Discourtesy: Outside § 87(2)(b) in Queens, an officer spoke rudely to § 87(2)(b)	
	§ 87(4-b), § 87(2)(g)	

Case Summary

On September 2, 2014, § 87(2)(b) filed this complaint via phone on behalf of § 87(2)(b). On August 30, 2014, § 87(2)(b) was hosting a party at his residence, § 87(2)(b) in Queens. There were approximately 10-15 guests, and music was playing in his back yard from speakers attached to § 87(2)(b)'s laptop. At approximately 9:45pm, officers in a marked police van responded to the location due to the volume of the music. Sgt. William Tergesen exited the van, along with other officers. § 87(2)(b) was standing in his driveway, behind a gate that separated the front and back yards, and told the officers to not enter his backyard. Sgt. Tergesen and the officers complied, and Sgt. Tergesen spoke to § 87(2)(b). While doing so, he allegedly blew cigar smoke in his face (**Allegation A**), as well as allegedly directed profanity towards him (**Allegation B**). § 87(2)(b) called 911, and informed the operator of the situation. During this time, Sgt. Tergesen had requested his identification approximately three times, and § 87(2)(b) refused to comply.

While still on the phone, Sgt. Tergesen ordered the other officers, PO Jason Figari, PO Richard Ernyey, PO Charles Lovelock, PO Michael McCaffrey, and PO Thomas Maloney to place § 87(2)(b) under arrest. While doing so, a struggle ensued, and § 87(2)(b) alleged that PO Ernyey punched him in the left forehead twice, and he was then pushed into the gate by Sgt. Tergesen and the other five officers. § 87(2)(b) was then allegedly brought to the ground, and while positioned on his chest, officers allegedly stepped on his head, put an arm on the back of his neck, stepped on his hands, and kicked and punched him on his body and head (**Allegations C, D, E, F, G, and H**). § 87(2)(b) alleged that he was kicked in the head at least ten times, and punched in the head an unknown number of times, and this happened both before and after he was handcuffed. During his arrest, § 87(2)(b) alleged that he was not resisting in any way.

§ 87(2)(b) was then escorted to the police van by PO Ernyey and PO McCaffrey. As they were walking him to the van, § 87(2)(b) allegedly whipped his head backwards, causing the back of his head to make contact with the front of PO McCaffrey's head, ultimately fracturing PO McCaffrey's orbital socket. PO Ernyey and PO McCaffrey then pushed § 87(2)(b)'s head and face into the passenger side door of the police van (**Allegation I and Allegation J**). PO Lovelock, PO Ernyey and an officer sat with § 87(2)(b) in the van, at which point § 87(2)(b) informed them that he was going to file a lawsuit. PO Ernyey allegedly responded, "You niggers say you get money. That's what you niggers say" (**Allegation K**). § 87(2)(b) then asked a question about the noise ordinance, and another officer replied, "You stupid black fuck. It's ordinance, not audience" (**Allegation L and Allegation M**).

PO McCaffrey came to the van and indicated to § 87(2)(b) that he had a lump over his left eye, and accused § 87(2)(b) of head-butting him. PO Ernyey then said to § 87(2)(b) "When we get to the precinct, I'm going to beat the shit out of you" (**Allegation N and O**). § 87(2)(b) was then transported to the 113th Precinct stationhouse by PO Lovelock, PO Ernyey, PO Maloney, and three other officers. Once inside the stationhouse, an officer told § 87(2)(b) to, "Shut the fuck up" (**within Allegation M**). § 87(2)(b) then requested to go to the hospital roughly ten times loudly, and an ambulance was called to the stationhouse.

PO Ernyey and PO Maloney escorted § 87(2)(b) to the ambulance, and as they were doing so, PO Ernyey allegedly tightened both of § 87(2)(b)'s handcuffs (**Allegation P**). While inside the ambulance, PO Ernyey allegedly puckered his lips and winked at § 87(2)(b) (**Allegation Q**), but § 87(2)(b) did not respond in any way. Upon arriving at Jamaica Hospital, § 87(2)(b) asked PO Ernyey for help exiting the ambulance. In response, PO McCaffrey grabbed § 87(2)(b)'s left underarm and PO Ernyey grabbed and pulled § 87(2)(b)'s right arm, and § 87(2)(b) exited, though he almost fell. In response,

§ 87(2)(b) called PO Ernyey “an asshole”, and PO Ernyey then allegedly tightened § 87(2)(b) s right handcuff (**within allegation P**). PO Ernyey then allegedly pushed § 87(2)(b) s right wrist upwards so that his fingers were facing inward and moving towards his forearm. § 87(2)(b) yelled out that PO Ernyey was trying to break his wrist, and PO Ernyey repeated this action two more times (**Allegation R**).

Inside of the hospital, § 87(2)(b) asked the nurse to look at his handcuffs. After doing so, she told PO Ernyey to remove the handcuffs because they were too tight. PO Ernyey refused, but loosened the right handcuff by one click. § 87(2)(b) lost consciousness, and when he awoke, he was told by the nurse that he was going to get his discharge papers, and PO Ernyey allegedly responded, “You’re not getting shit” (**within Allegation N**). § 87(2)(b) was then taken back to the stationhouse and released.

§ 87(2)(b) remained at § 87(2)(b) s residence, and spoke with Sgt. Tergesen. § 87(2)(b) attempted to pick up § 87(2)(b) s phone, which was on the ground, and in response Sgt. Tergesen kicked § 87(2)(b) in his chin and said, “This fucking phone is mine”. (**Allegations S and T**). Additionally, an officer also allegedly stepped on § 87(2)(b) s phone, causing it to be damage (**Allegation U**). § 87(2)(b) also informed § 87(2)(b) that Sgt. Tergesen allegedly said to other officers, “Go in the backyard and get the fucking laptop”. According to § 87(2)(b) at the instruction of Sgt. Tergesen, 13 officers allegedly entered the backyard, and the laptop was seized (**Allegations V and W**). When § 87(2)(b) protested the seizure of the laptop, an officer allegedly told § 87(2)(b) “Shut the fuck up. Stay the fuck away from me (**Allegation X**).

On September 9, 2014, § 87(2)(b) received follow-up medical treatment at S§ 87(2)(b) where he was diagnosed with a fractured nose and a concussion.

This case was originally assigned to Inv. Nicholas Bongiovanni, and was reassigned to the undersigned investigator on January 2, 2015.

Mediation and Criminal Histories

- Mediation was not offered to § 87(2)(b) due to his arrest and the injuries he sustained as a result of this incident.
- § 87(2)(b) § 87(2)(c)
- The New York City Office of the Comptroller confirmed that § 87(2)(b) has not filed a Notice of Claim as of March 6, 2015 (encl.8A).

Civilian and Officer CCRB Histories

- Sgt. Tergesen has been a member of the NYPD for seven years, and has had 10 cases involving 17 previous CCRB allegations with no substantiated allegations. § 87(2)(g)
- PO Lovelock has been a member of the NYPD for eight years, and has had six cases with 13 previous CCRB allegations with no substantiated allegations. § 87(2)(g)
- PO Ernyey has been a member of the NYPD for two years, and has had six cases with 27 previous CCRB allegations with no substantiated allegations. § 87(2)(g)
- This is the first CCRB complaint against PO Maloney during his one year tenure (encl.2D).

- PO McCaffrey has been a member of the NYPD for two years, and has had six cases involving 12 previous CCRB allegations with no substantiated allegations. § 87(2)(g)
- PO Figari has been a member of the NYPD for two years, and has had two cases involving five previous CCRB allegations with no substantiated allegations. § 87(2)(g)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)

Medical Documents

- The Medical Treatment of Prisoner form indicates, “At TPO defendant did sustain a contusion to forehead due to a fall to the ground while resisting arrest” (encl.5S).
- At § 87(2)(b), § 87(2)(b) was diagnosed with a fractured nose and a contusion to his head (encl. MR78, MR80).
- On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) to obtain follow-up treatment. There he was diagnosed with a head injury and post-concussion syndrome (encl. MR 22-MR27).

Findings and Recommendations

Allegations Not Pleaded

- **Discourtesy** - Although § 87(2)(b) alleged that he overheard Sgt. Tergesen say to other officers, “Get the fucking laptop”, a discourtesy allegation is not being pled due to the fact that the profanity was not directed at § 87(2)(b) and because that § 87(2)(b) never appeared at the CCRB to provide a sworn statement.

Allegation A- Discourtesy: Outside § 87(2)(b) in Queens, Sgt. William Tergesen acted rudely toward § 87(2)(b)

It is undisputed that Sgt. Tergesen was smoking a cigar while interacting with § 87(2)(b) § 87(2)(g)

§ 87(2)(b) testified that when speaking with Sgt. Tergesen, they were standing approximately two and a half feet away from each other, and Sgt. Tergesen was smoking a cigar. § 87(2)(b) asked him if the officers had a decibel meter, and Sgt. Tergesen then proceeded to intentionally blow smoke in § 87(2)(b)'s face. § 87(2)(b) then called 911, and informed the operator that officers were on his property, harassing him, and that Sgt. Tergesen had blown cigar smoke in his face. Also corroborating

§ 87(2)(b) s allegation were witnesses § 87(2)(b) and § 87(2)(b) § 87(2)(b)

In his statement, Sgt. Tergesen testified that he was smoking a cigar when he arrived on scene. However, he denied blowing smoke in § 87(2)(b) s face, and denied smoking the cigar after § 87(2)(b) got close to his face, which he approximated to be approximately 6 inches away. He continued to hold the cigar, without smoking it, until § 87(2)(b) was being placed under arrest. Sgt. Tergesen did recall § 87(2)(b) claiming to the 911 operator that he was blowing smoke in his face.

On the 911 Communications CD, § 87(2)(b) can clearly be heard informing the 911 operator that Sgt. Tergesen, whom he identified by name, was smoking a cigar, and blowing the smoke in his face.

According to Patrol Guide Procedure 203-10, smoking in public while in uniform is prohibited conduct. Furthermore, as is stated in Patrol Guide Procedure 203-10, an officer is required to be courteous and respectful when interacting with the public (encl. 1G-1I).

§ 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g)

Allegation B- Discourtesy: Outside § 87(2)(b) in Queens, Sgt. William Tergesen spoke rudely to § 87(2)(b)

When speaking about the volume of the music, § 87(2)(b) testified that he asked Sgt. Tergesen if the officers had a decibel meter, and Sgt. Tergesen responded, “I don’t need a fucking decibel meter”. § 87(2)(b) corroborated this, though no other witnesses stated that they heard the comment.

Sgt. Tergesen testified that he did not say to § 87(2)(b) “I don’t need a fucking decibel meter”, and stated that a decibel meter would not have been used in this instance. However he did corroborate that this conversation took place during the time § 87(2)(b) was on the phone with 911.

On the 911 Communications CD, § 87(2)(b) is heard asking Sgt. Tergesen, “What is the ordinance for New York City noise?” and asked if he had a sound meter. At this point, the line becomes fuzzy and a voice, reasonably concluded to belong to Sgt. Tergesen, is clearly heard saying something to the effect of “being fucked around”. Although noises can be heard after this point, no words can be heard or understood.

Patrol Guide Procedure 203-09 states that officers must always be courteous and respectful when interacting with the public (encl.1F).

§ 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g)

Allegation C- Force: Outside § 87(2)(b) in Queens, PO Charles Lovelock used physical force against § 87(2)(b)

Allegation D- Force: Outside § 87(2)(b) in Queens, PO Richard Ernyey used physical force against § 87(2)(b)

Allegation E- Force: Outside § 87(2)(b) in Queens, PO Thomas Maloney used physical force against § 87(2)(b)

Allegation F- Force: Outside § 87(2)(b) in Queens, Sgt. William Tergesen used physical force against § 87(2)(b)

Allegation G- Force: Outside § 87(2)(b) in Queens, PO Jason Figari used physical force against § 87(2)(b)

Allegation H- Force: Outside § 87(2)(b) in Queens, PO Michael McCaffrey used physical force against § 87(2)(b)

Although it is undisputed that officers used physical force in order to place § 87(2)(b) under arrest, § 87(2)(g) § 87(2)(b)

§ 87(2)(b) testified that after Sgt. Tergesen's third request, § 87(2)(b) asked why he was being told to produce identification. Sgt. Tergesen did not respond, and he then looked toward the other officers and said, "Get him". All six officers then approached § 87(2)(b) who was standing with his hands at his sides while holding his cell phone.

PO Ernyey then punched § 87(2)(b) using his fist on the left side of his forehead. § 87(2)(b) was then pushed into his backyard gate door by all six officers, and PO Ernyey punched him in the left forehead again. § 87(2)(b)'s arms were grabbed and § 87(2)(b) felt an arm pushing down on the back of his neck, though he did not know which officer or officers did this. § 87(2)(b) was brought to the ground, though he did not know how he landed aside from that he was positioned on his chest. An officer put his foot on § 87(2)(b)'s head to keep his head down and an officer put his arm on the back of § 87(2)(b)'s neck to keep his head down. § 87(2)(b) felt feet and fists making contact with his head. While on the ground, § 87(2)(b)'s arms were grabbed and extended outward, though he did not know which officer or officers performed these actions.

At some point while on the ground, § 87(2)(b) was handcuffed but did not see by whom. § 87(2)(b) was continuously kicked and punched in the head even after being handcuffed. For the duration while § 87(2)(b) was on the ground, officers stepped on § 87(2)(b)'s hands, kicked § 87(2)(b)'s head at least ten times and punched him in his head an unknown number of times. § 87(2)(b) was not trying to get up at any point, and was not resisting.

§ 87(2)(b) believed § 87(2)(b) was kicked and punched by officers but could not see § 87(2)(b) clearly because PO Lovelock stood in between her and § 87(2)(b) screamed for help and that the officers were kicking him and hurting him. § 87(2)(b) also stated that an officer said, "Get him", at which point the officers grabbed § 87(2)(b) and took him to the ground. Prior to this, an officer punched him in the stomach twice. Once on the ground, an officer punched § 87(2)(b) in the back. § 87(2)(b) stated that officers pushed § 87(2)(b) against the backyard gate, punched him, brought him to the ground, and kicked him. § 87(2)(b) testified that an officer grabbed § 87(2)(b) by the neck and pulled him to the ground, at which point officers began punching and kicking § 87(2)(b) multiple times. § 87(2)(b) also stated that § 87(2)(b) was pushed against the backyard fence, and was then taken to the ground, where he landed chest down. An officer then punched § 87(2)(b) once in the head.

§ 87(2)(b) stated that an officer placed his arm around the back of § 87(2)(b)'s neck, at which point multiple officers grabbed his arms and legs and brought him to the ground, chest first. An officer then placed his knee on § 87(2)(b)'s back, and another put his knee on § 87(2)(b)'s neck. An officer also punched § 87(2)(b) in the face four times with his fist. § 87(2)(b) stated that three officers came forward towards the gate and grabbed § 87(2)(b) near his upper torso/arm/shoulder area. He was then taken to the ground, where it took approximately seven officers to handcuff him. § 87(2)(b) stated that Sgt. Tergesen grabbed § 87(2)(b) by the right arm, and § 87(2)(b) then pulled away. Sgt. Tergesen responded by grabbing § 87(2)(b) back the back of his neck and three other officers stepped in to assist him. § 87(2)(b) was then thrown to the ground, chest first. All witnesses to the incident, aside from § 87(2)(b) explicitly stated that § 87(2)(b) was in no way resisting at any point during the altercation.

All six officers acknowledge that physical force was used in order to gain compliance from § 87(2)(b) and place him under arrest. However, multiple officers also testified that from the outset, § 87(2)(b) was acting combative, was not cooperating with directives, and was verbally aggressive. He was asked at least three times to provide identification and refused to do so, and once officers began attempting to place him under arrest, he was not compliant and began resisting immediately. Furthermore, multiple officers testified that during the struggle, § 87(2)(b) appeared to cock his fist as if he was preparing to strike one of the officers, and in response, PO Figari placed § 87(2)(b) in a bear hug and took him to the ground. At that point, the other officers also went to the ground to attempt to place § 87(2)(b) in handcuffs. Ultimately, it required at minimum four officers to successfully overcome § 87(2)(b)'s resistance and place him in handcuffs.

§ 87(2)(g)

§ 87(2)(g)

Allegation I- Force: Outside § 87(2)(b) in Queens, PO Michael McCaffrey hit § 87(2)(b) against an inanimate object.

Allegation J- Force: Outside § 87(2)(b) in Queens, PO Richard Ernyey hit § 87(2)(b) against an inanimate object.

According to § 87(2)(b) after he was placed in handcuffs, unknown officers picked him up off the ground and escorted him to the police van. When he arrived at the door, an unknown officer pushed § 87(2)(b)'s head and face into the passenger side door. § 87(2)(b) and § 87(2)(b) corroborated

this, stating that an officer pushed § 87(2)(b)'s head into the door of the van, with his face making contact with the vehicle.

PO Ernyey and PO McCaffrey testified that they escorted § 87(2)(b) to the van, and that they were the only two officers who did so. Both officers stated that while they were walking to the van, § 87(2)(b) purposefully swung his head backwards, which resulted in the back of § 87(2)(b)'s head making contact with the front of PO McCaffrey's head, specifically his left eye socket. § 87(2)(b) then attempted to also head-butt PO Ernyey, but he was able to move his head before any contact was made. PO McCaffrey also alleged that prior to the head-butt, § 87(2)(b) called him a "cracker mother fucker", and a "piece of shit".

When asked how PO Ernyey responded to PO McCaffrey being head-butted by § 87(2)(b) he became indignant and evasive with his answers. He repeatedly stated that he responded by moving his head away from § 87(2)(b) and then when asked if the head-butt was at all acknowledged, he stated, "Oh, like 'oh, he's head-butting me?'" and "I didn't say, 'Please stop head-butting me.'" When asked how PO McCaffrey reacted after he was head-butted, PO Ernyey stated he did not recall. Unprompted, PO Ernyey then asked himself, "Did you punch him back when he head-butted your partner?", and responded to himself, "No, I didn't. I kept walking to the van and I got into the van". PO Ernyey then became more irate, yelled at the investigators, and stated that they were beating around the bush and that he did not know what the questions were getting at. PO Ernyey did not recall if he or PO McCaffrey pushed § 87(2)(b)'s head, causing it to make contact with any part of the van.

Patrol Guide Procedure 203-11 states that "Only that amount of force necessary to overcome resistance will be used to effect an arrest..." (encl.1D-1E).

§ 87(2)(g)

§ 87(2)(g)

Allegation K- Offensive Language: Outside § 87(2)(b) in Queens, PO Richard Ernyey made remarks to § 87(2)(b) based on race.

Allegation N- Discourtesy: Outside § 87(2)(b) in Queens and at § 87(2)(b), PO Richard Ernyey spoke rudely to § 87(2)(b).

Allegation O -Force: Outside § 87(2)(b) in Queens, PO Richard Ernyey threatened § 87(2)(b) with the use of force.

Once in the van, § 87(2)(b) told the officers inside that he was going to file a lawsuit against them. PO Ernyey replied to him, "You niggers say you get money. That's what you niggers say." § 87(2)(b) responded by telling PO Ernyey, "No stupid, I don't say 'get money'; I have a job and make a living."

§ 87(2)(b) stated that while § 87(2)(b) was in the police van, he heard him yell that the two officers standing near the door told § 87(2)(b) that they were going to “fuck him up”. Additionally, § 87(2)(b) stated that it appeared that there was a verbal interaction inside the van between the officers and § 87(2)(b) but he could not specifically hear what was said.

PO Ernyey told § 87(2)(b) “When we get to the precinct, I’m going to beat the shit out of you.” At this point § 87(2)(b) screamed out to § 87(2)(b) who was speaking with an officer, that the officers said they were going to beat him up in the stationhouse. He was then transported to the 113th Precinct with the original responding officers.

PO Ernyey denied making any remarks regarding § 87(2)(b)’s race or ethnicity, directing any profanity towards him, or threatening him with the use of force. All of the officers denied overhearing any remarks made regarding § 87(2)(b)’s race or ethnicity, and all officers denied overhearing any threat of force made to § 87(2)(b). Furthermore, all the officers denied overhearing any profanity directed toward § 87(2)(b) while he was inside the van. PO Ernyey denied directing profanity at § 87(2)(b) at § 87(2)(b), and PO Maloney did not overhear him use any profanity with § 87(2)(b).

§ 87(2)(g)

Allegation L- Offensive Language: Outside § 87(2)(b) in Queens, an officer made offensive remarks to § 87(2)(b)

Allegation M- Discourtesy: Outside § 87(2)(b) in Queens and inside the 113th Precinct stationhouse, an officer spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that while inside the van and still outside of his residence, an officer said to him, “You stupid black fuck, it’s ‘ordinance’, not ‘audience’”. § 87(2)(b) also stated that the officer was not one of the originally responding officers, and provided a vague and generic physical description. However, according to the officers’ statements, the only officers to ride in the van with § 87(2)(b) back to the stationhouse were the officers who originally arrived on scene.

§ 87(2)(b) stated that while inside the 113th Precinct stationhouse, an officer told him to, “Shut the fuck up”. § 87(2)(b) described this officer as the “Chief”, and provided a physical description. However, the highest ranking officer on duty at the time was a lieutenant, who was not assigned to the stationhouse. Furthermore, the desk supervisor, Sgt. McCabe, does not fit the physical description provided by § 87(2)(b).

§ 87(2)(g)

Allegation P- Force: Outside the 113th Precinct stationhouse and at § 87(2)(b), PO Richard Ernyey tightly handcuffed § 87(2)(b)

Allegation Q- Discourtesy: En route to § 87(2)(b), PO Richard Ernyey gestured rudely to § 87(2)(b)

Allegation R- Force: Outside § 87(2)(b), PO Richard Ernyey used force against § 87(2)(b)

Once at the stationhouse, § 87(2)(b) requested an ambulance about ten times loudly. PO Ernyey and PO Maloney escorted him into an ambulance, and PO Ernyey tightened both of § 87(2)(b)'s handcuffs while doing so. § 87(2)(b) did not say anything or do anything before PO Ernyey tightened his handcuffs. Inside the ambulance, PO Ernyey puckered his lips and winked his eye at § 87(2)(b). § 87(2)(b) did not respond in any way.

Upon arriving to § 87(2)(b), PO Ernyey told § 87(2)(b) to exit the ambulance by jumping down. Due to being leg shackled, § 87(2)(b) told PO Ernyey he needed help to get out of the ambulance. PO Maloney grabbed § 87(2)(b)'s left underarm and PO Ernyey grabbed and pulled § 87(2)(b)'s right arm. § 87(2)(b) then exited the ambulance, and called PO Ernyey an “asshole” because he almost fell. In response, PO Ernyey tightened only § 87(2)(b)'s right handcuff a second time. PO Ernyey then pushed § 87(2)(b)'s right wrist upwards so that his fingers were going inward and toward his forearm. § 87(2)(b) yelled out loud that PO Ernyey was trying to break his wrist, and PO Ernyey then pushed § 87(2)(b)'s right wrist two more times in the same fashion.

PO Ernyey denied that he tightened § 87(2)(b)'s handcuffs at any point, as well as denied puckering his lips and winking at § 87(2)(b) while inside the ambulance. PO Ernyey did not recall § 87(2)(b) requesting assistance in exiting the ambulance, and he did not recall grabbing § 87(2)(b)'s arms and pulling him out of the ambulance. PO Ernyey did not recall how § 87(2)(b) exited the ambulance, and he did not push § 87(2)(b)'s wrist upwards in order to inflict pain. He did not recall hearing § 87(2)(b) saying that he was in pain or that an officer was trying to break his wrist. PO Maloney denied witnessing any of the above actions occur.

§ 87(2)(g), § 87(2)(b)

Allegation S- Force: Outside § 87(2)(b) in Queens, Sgt. William Tergesen used physical force against § 87(2)(b)

Allegation T- Discourtesy: Outside § 87(2)(b) in Queens, Sgt. William Tergesen spoke rudely to § 87(2)(b)

Allegation X- Discourtesy: Outside § 87(2)(b) in Queens, an officer spoke rudely to § 87(2)(b)

§ 87(2)(b) provided an unverified statement, in which he alleged that when he attempted to pick up § 87(2)(b)'s phone, Sgt. Tergesen kicked him in the chin and said, “This fucking phone is mine”. Sgt. Tergesen then stepped on the phone and instructed another officer to pick it up. Additionally, after the officers had entered the backyard and confiscated § 87(2)(b)'s laptop, § 87(2)(b) protested, and in response, an officer told § 87(2)(b) “Shut the fuck up. Stay away from me”, and to mind his own business.

§ 87(2)(g)

Allegation U- Abuse of Authority: Outside § 87(2)(b) in Queens, an officer damaged § 87(2)(b)'s property

§ 87(2)(g)

In his statement, § 87(2)(b) testified that on August 31, 2014, § 87(2)(b) informed him that PO Lovelock kicked and stepped on his phone after he had been placed in the van. § 87(2)(b) did not witness this; however, when he received his phone upon his release, the screen was cracked. He did not provide any proof or photographic evidence of the damage to his phone.

§ 87(2)(b) stated that she observed PO Lovelock step on § 87(2)(b)'s phone while it was on the ground, and then pick it up. § 87(2)(b) told PO Lovelock that he was on private property and requested that the phone be given to § 87(2)(b). However, PO Lovelock refused, and informed them that it was going to be taken to the stationhouse and vouchered.

In his statement, § 87(2)(b) stated that he observed § 87(2)(b)'s phone on the ground, and bent over to pick it up. In response, Sgt. Tergesen stepped on the phone and instructed another officer to pick it up.

PO Lovelock denied damaging § 87(2)(b)'s phone in any way, and none of the officers stated that they observed any officer step on, kick, or damage § 87(2)(b)'s phone. Although the phone was taken to the stationhouse and vouchered, none of the officers admitted to removing the phone from the location, or observing any other officer do so. The property voucher for § 87(2)(b)'s phone indicated that the right side of the screen was shattered; however, the state of the phone prior to the incident is unknown.

§ 87(2)(g)

Allegation V- Abuse of Authority: Sgt. William Tergesen authorized the entry into § 87(2)(b) in Queens.

Allegation W- Abuse of Authority: Sgt. William Tergesen authorized the seizure of § 87(2)(b)'s property.

It is undisputed that under Sgt. Tergesen's direction, officers entered § 87(2)(b)'s residence without permission to do so, and in the process removed § 87(2)(b)'s laptop, which in this case served as the sound reproduction device.

§ 87(2)(g)

According to Patrol Guide Procedure 214-23, "The decision to forcibly enter into private or semi-private premises to correct noise complaints will ONLY be made by a precinct commander/duty captain..." (encl. 1A-C).

§ 87(2)(g)

[illegible]

Investigator: _____
Signature Print Date

Supervisor: _____

Title/Signature	Print	Date

Reviewer: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date